

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 904
91ST GENERAL ASSEMBLY

Reported from the Committee on Agriculture, Conservation, Parks and Tourism, April 12, 2001, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

TERRY L. SPIELER, Secretary.

1421S.03C

AN ACT

To repeal sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330 and 252.333, RSMo 2000, relating to agroforestry, and to enact in lieu thereof eight new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330 and
2 252.333, RSMo 2000, are repealed and eight new sections enacted in lieu thereof, to be known
3 as sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330 and 252.333, to read
4 as follows:

252.303. The department [shall] **may** develop and implement, in cooperation with the
2 University of Missouri college of agriculture, **the University of Missouri Center for**
3 **Agroforestry**, the University of Missouri extension service, the Missouri department of
4 natural resources, private industry councils[, the United States Department of Agriculture,]
5 and the Missouri department of agriculture, an agroforestry program. The program shall be
6 designed to [complement a new or extended federal conservation reserve plan which as part
7 of its provisions allows and encourages] **encourage** the development of a state program of
8 agroforestry, and shall encourage soil conservation and diversifications of the state's
9 agricultural base through the use of trees planted [or otherwise established in lanes with
10 grass strips or row crops or both in between the lanes] **in an agroforestry configuration**
11 **to accommodate alley cropping, forested-riparian buffers, silvopasture and**
12 **windbreaks.**

2 252.306. As used in sections 252.300 to 252.333, the following terms shall mean:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

3 (1) **"Alley cropping", planting rows of trees at wide spacings and cropping the**
4 **alleyways;**

5 (2) "Conservation reserve program", the conservation reserve program authorized by
6 the Federal Food Security Act of 1985, as amended, (Title XII, P.L. 99-198), or its successor
7 program;

8 [(2)] (3) "Department", the Missouri department of conservation;

9 [(3)] (4) "Director", the director of the Missouri department of conservation;

10 [(4)] (5) "Eligible land", agricultural land which is susceptible to soil erosion [and is
11 placed in the federal conservation reserve program as of or after August 28, 1990, or other
12 highly erosive land which is not enrolled in the conservation reserve program, as determined
13 by the director of the department] **that has a recent cropping history, marginal pasture**
14 **land, land surrounding livestock enclosures and riparian zones;**

15 (6) **"Eligible practices", single or multiple rows of trees, alone or combined**
16 **with other plants such as grass, conventional row crops or horticulture crops, and**
17 **animals located at intervals of distance within or around fields, around livestock**
18 **enclosures, and along streams and rivers, specifically designed to provide**
19 **production and environmental enhancement benefits in accordance with the**
20 **practices identified in section 252.303;**

21 [(5)] (7) "Enhancement phase", the period of time, not to exceed ten years,
22 immediately following the establishment phase, during which payments are made by the state
23 of Missouri to landowners who use their eligible land for agroforestry purposes as required
24 by the department;

25 [(6)] (8) "Establishment phase", the period of time during which eligible land is
26 [placed and held in the federal conservation reserve program or a six-month period for other
27 highly erosive land which is not enrolled in the conservation reserve program] **being**
28 **prepared for planting trees and developing agroforestry practices**, as determined by
29 the director of the department;

30 (9) **"Forested-riparian buffers", a combination of trees and other vegetation**
31 **established parallel to streams and rivers;**

32 (10) **"Silvopasture", combining trees with forage and livestock;**

33 (11) **"Windbreaks", planting single or multiple rows of trees for protection**
34 **and enhanced production of crops and animals.**

252.309. 1. The director may enter into agreements with individual landowners to
2 make [such] **incentive payments during the enhancement phase** to
3 landowners. Recipients of such payments shall utilize the land for which such payment is
4 made for agroforestry purposes as required by the director [under] **pursuant to** sections

5 252.300 to 252.333. [In administering such payments, the director may make such
6 agreements with the United States Department of Agriculture as the director deems
7 necessary or appropriate.]

8 2. The amount of state incentive payment made to a landowner per acre of eligible
9 land shall be [the lesser of:

10 (1)] an amount which, when added to any cash or in-kind **net** income produced by
11 crops raised on the land, is substantially equal to the amount per acre previously paid or
12 which would have been paid to the landowner under the federal conservation reserve
13 program]; or

14 (2) An amount less than that provided in subdivision (1) of this subsection, if such
15 lesser amount does not significantly reduce the number of acres for which agroforestry
16 incentive payments are made under this section].

17 3. If an application made pursuant to section 252.315 is approved by the director, the
18 director shall develop a schedule of annual payments to be made by the state.

19 4. The state shall not make any payment to a landowner to maintain the use of
20 eligible land during the enhancement phase for agroforestry purposes after ten years have
21 elapsed since the first such incentive payment is made.

252.315. 1. To participate in the program, the landowner shall make application to
2 the director in writing. The written application shall show the number of acres to be placed
3 in the program and that the land which is to be placed in the agroforestry program meets the
4 eligibility requirements of this section. The application shall also contain a detailed plan of
5 the landowner's proposal to meet the requirements of sections 252.300 to 252.333, including
6 the type **and number** of [tree] **trees** to be planted, established, or managed, the type of
7 compatible grass [and the row crop or crops to be grown in the alternative strips], **other**
8 **crops** and such other information as may be deemed necessary. **The number of trees**
9 **required to satisfy eligibility may vary with agroforestry practice, but in each case**
10 **shall be a sufficient number to guarantee the success of the practice and shall be**
11 **consistent with standards established for each practice.**

12 2. The director shall review each application. In reviewing the application the
13 director shall determine the type or types of soil located in the area of the land proposed to
14 be included in the agroforestry program and shall apply the land capability classification
15 system to determine the potential or limitations of the land for inclusion in the
16 program. Before the director acts upon the application, an on-site inspection shall be made
17 by a representative of the department of conservation or its approved agent. The inspecting
18 representative shall attest to the efficacy of the agroforestry plan to be used, the number of
19 acres to be placed under agroforestry management, the species **and number** of trees to be

20 planted, established, or managed, and [agronomic] **other crop** components of the proposed
21 program. After the report of the on-site inspector and the review by the director, the director
22 shall determine the landowner's eligibility to participate in the agroforestry program and
23 shall determine the amount of cost sharing, including in-kind and labor components, for the
24 landowner. If the director fails to approve an application, the aggrieved landowner may
25 request a hearing before the conservation commission or its authorized representative within
26 thirty days of notice to the landowner of the failure of the conservation department to approve
27 the application, or the landowner may proceed under the provisions of section 536.150, RSMo,
28 as if the act of the conservation department was one not subject to administrative review. If
29 an action is brought pursuant to section 536.150, RSMo, venue shall be in Cole County.

252.321. [The director shall develop demonstration agroforestry conservation
2 programs to illustrate to landowners in this state the benefits and advantages of participation
3 in such a program. Demonstration sites shall be selected by the director to involve various
4 soil types and various erosion dangers and shall be geographically located among the major
5 farming areas of the state. The director shall contract with the University of Missouri
6 extension service for the delivery of the demonstration educational component of sections
7 252.300 to 252.333.] **The University of Missouri center of agroforestry and extension**
8 **service, in consultation with the director, shall establish agroforestry**
9 **demonstration areas, and develop and deliver the educational components of**
10 **sections 252.300 to 252.333.**

252.324. 1. The director may promulgate rules and regulations necessary to carry out
2 the provisions of sections 252.300 to 252.333. Before promulgating any such rule, the director
3 shall seek the advice and comments of the University of Missouri college of agriculture, **the**
4 **University of Missouri Center for Agroforestry**, the University of Missouri extension
5 service, the Missouri department of natural resources, private industry councils, [the United
6 States Department of Agriculture,] the Missouri department of economic development and
7 the Missouri department of agriculture. No rule or portion of a rule promulgated under the
8 authority of this chapter shall become effective unless it has been promulgated pursuant to
9 the provisions of [section 536.024] **chapter 536**, RSMo.

2. The Missouri department of conservation may contract with the division of soil and
11 water conservation of the Missouri department of natural resources for any administrative
12 functions required under the provisions of sections 252.300 to 252.333.

252.330. During the establishment phase, the director may pay for the planting of
2 trees on eligible land which is used for agroforestry pursuant to sections 252.300 to
3 252.333. Such payment shall be limited to expenses which are determined to be reasonable
4 and necessary by the director, **but shall not exceed seventy-five percent of the cost of**

5 **establishment.**

252.333. The director may make incentive payments for agroforestry purposes of land
2 [which is susceptible to soil erosion] **enrolled in this program.** The duration of such
3 payments shall not exceed ten years. The director may also expend funds to plant trees on
4 such land. Such expenditures may include both planting and associated practices as
5 determined by the director.